



## September 30, 2010, Stormwater Regulation Vesting

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**New stormwater management regulations become effective  
September 30, 2010**

### ***YOU'RE WONDERING...***

*To what projects will the new stormwater regulations apply?*

*What projects are vested to Drainage, Grading, Low Impact  
Development Codes in effect before September 30, 2010?*

### **How do I know if a project is vested to previous regulations?**

❖ **Ask the following question.....**

*Is the proposal a "build out" related to an underlying permit or approval  
that has vested rights under county code, state law or common law?*

If yes, the subsequent development permit is vested to pre-September  
30, 2010, regulations (subject to county code, state law or common law  
restrictions)

### **General rule of thumb**

Applications for the build out of a use approved in an underlying permit  
application or approval which had vested rights at the submittal of a complete  
application vest to the regulations governing the underlying permit or approval.  
The use must be covered in the underlying permit or approval.

### **Examples of projects that would be vested**

❖ Subsequent development permits/approvals that vest to regulations  
governing their underlying permit or approval

- Residential building permits proposed on most short subdivisions vest to  
the stormwater and grading regulations in effect when the complete short  
subdivision application was submitted. Vesting for short subdivision  
recorded in 1987 or before, are case by case.



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- Permit applications and drainage review for the construction of roads/infrastructure approved in an unexpired preliminary plat are vested to the regulations that control the preliminary plat approval.
  - Development on lots in subdivisions (including rural cluster and planned residential development subdivisions) vest to the conditions and regulations governing the subdivision approval for a period of seven years from the date the final subdivision was recorded. (Note: In 2014, SB 6544 that allows a 7 year vesting period expires. In 2014, the 5 year vesting period in RCW 58.17.170 is reinstituted.)
  - Development in a Low Density Multifamily Residential (LDMR) is vested when a master permit application was accompanied by either a complete grading permit application or a request by the applicant to have the administrative site plan reviewed by the Snohomish County Hearing Examiner (Section 5 of Amended Ordinance No. 07-022).
  - Development consistent with an approved administrative site plan for Single Family Detached Units (SFDU), but not if a rezone was required (Amended Ordinance No. 07-022 and SCC 30.41F.030).
  - Development in a Binding Site Plan (BSP) if the use for which a permit is requested was expressly depicted. "Expressly depicted" means the BSP shows sufficient detail to depict future building plans including building footprints, stormwater detention facilities, parking and landscape areas, etc. pursuant to Title 30 SCC (SCC 30.41D.105 and PDS Rule 6502).
- ❖ Other permits with vested rights when a complete permit application was submitted that vest subsequent development permits and approvals:

Grading, building, shoreline conditional use, conditional use, administrative conditional use and shoreline substantial development permits

### **Underlying permits or approvals that do not vest**

(Subsequent development permits to build out these plans, etc, also do not vest)

- Official Site Plan
- Administrative Site Plan (except see SFDU above)
- Rezone



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### ❖ **Examples of when the new stormwater regulations apply**

After September 30, 2010, the following will be subject to the new stormwater regulations:

- Permits for development on lots created before or outside of the state subdivision statute
- Permits for development consistent with approved administrative site plans (see SFDU/LDMR exception) and approved official site plans (including Urban Center applications)
- In LDMRs without either a complete grading application, or request for administrative site plan review by HE (LDMRs considered SFDUs before Am. Ord. No. 07-022)
- SFDU administrative site plan submitted with a rezone request
- Permits for development in a binding site plan without expressly depicted uses
- Class IV General forest practice except special non-conversions (Title 222 WAC and Chapter 30.63A and 30.63B SCC exemptions)
- Utility work (Note: exceptions in Chapters 30.63A and 30.63B SCC)
- New applications for administrative conditional use, conditional use, shoreline substantial development, and shoreline conditional use permits
- New Cottage Housing, Townhouse, Multi-family, SFDUs, preliminary subdivision and short subdivision, BSP applications, etc.
- Building permit additions

### **Which permit submittal applications do I use?**

- ❖ If the project is vested to the stormwater regulations in effect just prior to September 30, 2010, see Grading Bulletin # 35 and select the grading permit application, submittal checklist and relevant drainage plan checklist (full or targeted) for projects vested prior to September 30, 2010
- ❖ If the project is vested to the new stormwater regulations effective September 30, 2010, submit the applicable forms (based on project thresholds and criteria in chapters 30.63A and 30.63B SCC) for projects vested on or after September 30, 2010:



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- Land Disturbing Activity permit application (clearing, grading, impervious surface)
- Drainage Review Submittal Checklist/Form along with the appropriate:
  - Targeted or Full Stormwater Site Plan submittal checklist and the Targeted or Full Stormwater Pollution Prevention Plan (SWPPP) checklist
  - When the Small Project SWPPP criteria apply, submit the Small Project SWPPP application & checklist

### **Could I choose to use the new stormwater regulations?**

Yes, however, no “cherry picking” of regulations is allowed in vesting. If you choose to use the new stormwater regulations that become effective September 30, 2010, compliance with all of chapters 30.63A, 30.63B and 30.63C is required.

### **Do fees vest?**

No, fees do not vest. On September 30, 2010, the new drainage and land disturbing activity fees adopted in ordinance No. 10-073 will apply to projects in the “pipeline.”

**Notice:** Snohomish County created this information to provide general guidance to the public about the effect of codes and regulations on their projects. This information is not intended to be a complete statement of all vesting laws and rules and should not be used as a substitute for them. Vesting law and regulations are constantly evolving. Vesting determinations are sometimes complex and must be determined on a case by case basis. Consult Snohomish County staff to be sure you understand all requirements before submitting permit applications or requests for approvals. If project vesting is questionable, a pre-application meeting is recommended. It is the applicant’s responsibility to ensure that project submittals meet all requirements of applicable codes and regulations.